IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 589 OF 2006

MR. ANTHONY D. GONSALVES ....Petitioner

Versus

STATE OF GOA THROUGH ITS CHIEF SECRETARY & 2 ORS ....Respondents

Mr. Mahesh Amonkar, Advocate for petitioner.

Mr. S.S. Kantak, AG with Ms.K Chodankar, AGA for respondent.

Coram:- J. N. PATEL, J.

Date:- 14th December, 2006

P.C.

1. Heard.

2. The petition can be disposed of at the stage of admission itself. The petitioner is one of the claimants whose land has been acquired, and dis-satisfied with the award, he has preferred an appeal in the matter.

3. It is the case of the petitioner that he was not served with any notice as contemplated under section 20 of the Land Acquisition Act, 1894 and therefore on coming to know that the reference has been answered in his absence, he moved the Court for setting aside the award passed by the reference Court by seeking condonation of delay in filing the application.

4. The learned reference Court rejected the application for condonation of delay, solely on the ground that in order to challenge the award, the only remedy available for the applicant to challenge the award in an appeal and therefore the application for condonation of delay is not maintainable.

5. The learned AG submits that the reference Court ought to have considered the application on merits, rather than rejecting the same on sole ground as it will be an issue which will be examined by the reference Court for setting aside the award. It appears from the impugned order that the Trial Court erred in outrightly rejecting the application for condonation of delay on a premise which was not relevant for consideration at the stage of filing the application for condonation of delay and therefore the impugned order rejecting the application for condonation of delay is quashed and set aside. The reference Court to consider the application for condonation of delay filed by the petitioner/claimant on its own merits and dispose it of in accordance with law. The question whether the application for setting aside the award is maintainable or not has to be decided independantly on its own merits.

6. The petition stands disposed of accordingly with no order as to costs.

J. N. PATEL, J.

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